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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/611,454

06/30/2003

James Harold Gray

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07/21/2009

AT & T LEGAL DEPARTMENT - GHM

ATTN: PATENT DOCKETING

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BEDMINSTER, NJ 07921

EXAMINER

INGVOLDSTAD, BENNETT

ART UNIT

PAPER NUMBER

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MAIL DATE

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07/21/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: JAMES GRAY, THOMAS BROTHERS
and WILLIAM MATZ

Application No. 10/611,454
Technology Center 2400

Mailed: July 21, 2009

Before TOI JOHNSON *Review Paralegal*
JOHNSON, *Review Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on July 13, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the

application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, CLAIMS APPENDIX

A review of the Appeal Brief filed October 16, 2008 reveals that claim 3 in the Claims Appendix of the Appeal Brief is not consistent as amended in the last entered amendment filed on June 17, 2008. *See Manual of Patent Examining Procedure* (MPEP) § 1205.02 (8th ed. Rev. 6, Sept 2007) for details.

Specifically, claim 3 as provided in the Brief's Claims Appendix, reads:

3. The method of claim 2, wherein determining at the data center whether to inform the user of the interactive television service of alternate content further comprises performing a search of one or more Internet web sites.

However, in the last entered Amendment dated June 17, 2008, claim 3 reads:

3. (previously presented) The method of claim 2, wherein determining at the data center whether to inform the user of the interactive television service of alternate content further comprises performing a search of one or more Internet web sites.

Appropriate correction of claim 3 is required in the Claims Appendix in proper format is required.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed in this application on February 20, 2009. There is no evidence on the record indicating that the Examiner has considered the Reply Brief in accordance with 37 CFR CFR § 41.43(a)(1) and MPEP § 1208, part II.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed on October 16, 2008 defective;
- 2) notify Appellant to file a "paper" properly addressing the Claims Appendix;
- 3) acknowledge and consider any "paper" submitted by Appellant to correct the Appeal Brief;
- 4) consider the Reply Brief filed February 20, 2009 as indicated above; and
- 5) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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